



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/882,205	06/15/2001	JAY H. CONNELLY	042390P11860	8464

7590 06/03/2008
James Y. Go
BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP
Seventh Floor
12400 Wilshire Boulevard
Los Angeles, CA 90025-1026

EXAMINER

HUYNH, SON P

ART UNIT	PAPER NUMBER
----------	--------------

2623

MAIL DATE	DELIVERY MODE
-----------	---------------

06/03/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 09/882,205	Applicant(s) CONNELLY, JAY H.	
	Examiner SON P. HUYNH	Art Unit 2623	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 03 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 March 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-12 and 43-49 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-12 and 43-49 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Arguments

1. Applicant's arguments with respect to claims 1-12, 43-49 have been considered but are moot in view of the new ground(s) of rejection.

Note: U.S. 2005/0028208 A1 (referred as E208), US 6,536,041 B1 (referred as Knudson), US 2003/0149988 A1 (referred as E988), US 2006/0190966A1 (referred as McKissick), US 7,185, 355 (referred as E355), US 2005/0204388 A1 (referred as E388), US 2005/0283800 A1 (referred as E800), US 6,820,278 B1 (referred as E278), US 20050262542 A1 (referred to as DeWeese)... are incorporated by references in their entirety in US 2004/0117831 A1 (referred as E831) – see include, but are not limited to, E831: paragraphs 0118, 0143, 0146, 0146, 0151, 0188, 0216), therefore, these applications and all incorporated by references in their entirety are treated as part of the text of E831 (see M.P.E.P 2163.07 (b) [R-3]).

Applicant argues Ellis fails to disclose that first feedback is based on previous content consumption by the at least one of the plurality of clients (page 8, paragraph 3-4). This argument is respectfully traversed.

Ellis discloses television distribution facility polls set top boxes periodically for certain information (e.g., pay program account information or information regarding programs that have been purchased and viewed using locally generated authorization technique) - see include, but are not limited to, E355: col. 5, lines 14-18); and the program guide may monitor the programs that are being watched by the user by monitoring the user viewing's times, channels, and the frequency with which the programs are watched. Monitoring the user's behavior in this way allows the program guide to determine the user's preferences (see include, but are not limited to, col. 11, lines 4-16). Thus, the limitation "first feedback is based on previous content consumption by the at least one of the plurality of clients" is interpreted as viewer behavior, viewer's activities, or viewer selections is based on program or content that is previously purchased or viewed by at least one of the plurality of viewers.

For the reasons given above, rejections on the claims are discussed below.

Claims 13-42 have been canceled.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the

Art Unit: 2623

applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1-12, 43-49 are rejected under 35 U.S.C. 102(e) as being anticipated by E831.

Regarding claim 1, E831 discloses a method, comprising:

broadcasting content descriptors, which are sets of attribute values that describe pieces available content being considered for potential inclusion in a future broadcast schedule, but not included in a previous broadcast schedule to a plurality of clients (e.g., broadcasting content descriptors including category, channel, title, episode identifier, or time, etc. which describes content of episodes that are first run, news, pay per view program, or incoming broadcast program, etc. being considered for inclusion in a future broadcast schedule to the plurality of users at user television equipments. Since the content is content of "first run" episodes, or content of incoming broadcast program, or coming soon, or new release, etc., the content is not included in a previous broadcast schedule – see include, but are not limited to, figures 1b-1d, 2-4, 9-11, 32-33, 36, 38 paragraphs 0088-0089, 0092, 0094, 0099, 0124, 0131, 0195-0196, 0201, 0216; E388: abstract, figures 11, 12a, paragraphs 0010-0011, 0015, 0019, 0041, 0057-0058, 0089);

receiving first feedback from at least one of the plurality of clients regarding the content descriptors, the feedback being an indication from the at least one of the plurality of clients of the relative desirability of the available content described by the content descriptors (receiving feedback such as viewer selection of a niche hub, time

slot, viewing viewer rating, vote, or viewing habits, etc. from at least one of the plurality of users, the feedback being an indication of the relative desirability of the available content described by the content descriptor e.g., two happy faces, one unhappy face, or one happy face, or favorite program, niche hub, etc., – see include, but are not limited to, figures 8, 11-18, 24-26, paragraphs 0156, 0160, incorporated by reference U.S. patent 7,185,355 (hereinafter referred to as E355), figures 7-14);

E831 further discloses television distribution facility polls set top boxes periodically for certain information (e.g., pay program account information or information regarding programs that have been purchased and viewed using locally generated authorization technique) - see include, but are not limited to, E355: col. 5, lines 14-18); and the program guide may monitor the programs that are being watched by the user by monitoring the user viewing's times, channels, and the frequency with which the programs are watched. Monitoring the user's behavior in this way allows the program guide to determine the user's preferences (see include, but are not limited to, col. 11, lines 4-16). Thus, the limitation "first feedback is based on previous content consumption by the at least one of the plurality of clients" is interpreted as viewer behavior, viewer's activities, or viewer selections is based on program or content that is previously purchased or viewed by at least one of the plurality of viewers.

E831 further discloses refining a list of available content in response to the feedback to create the future broadcast schedule, (e.g., displaying a list of future broadcast schedule based on user preferences/profiles, or user selections, etc. see include, but are not limited to, paragraphs 0115, 0119, 0120, 130-131, 0136, 0149,

0150, 0157; E988: figures 18f, E388: figures 10-12a), wherein refining the list of available content prioritizes an order in which at least a portion of the available content described by the content descriptors will be broadcast (e.g. the selected list of available content prioritizes/arranges in order of air times, or ratings, etc. in which at least a portion of the available content (e.g., content title, a clip, program content, etc.) will be broadcast (see include, but are not limited to, paragraphs 0136-0138, 0157-0158; E988: figures 18f, E388: figures 10-12a) ; and

broadcasting a further descriptive content included in the content listed in the refined list of available content to the plurality of clients, the further descriptive content describing pieces of content that are more likely to be ranked, rated, and/or consumed (program guide information and other information provided by broadcasting distribution facility further comprises description, title, television program contest, survey, target advertisement, preview, video clip, detail information, rate, ratings, happy faces, etc. see include, but are not limited to, paragraphs 0127-0134, 0140, 0142, 0156-0160, 0245, 0247-0250, 0258);

receiving next feedback from the at least one of the plurality of clients regarding the further description content (e.g. receiving user selection for additional information, program information, or video clips, etc. from at least one of the plurality of users of user television equipments –see include, but are not limited to, E831: figures 5-16, 18, 50, 53A, 53E, 54A; E988: figures 11a-12b, 14a-15b; E388: figures 7-12)

refining a list of available content in response to the next feedback (e.g., narrowing the list of available content in response to user selection of particular hubs or

Art Unit: 2623

genre, air time, etc. E831: figures 5-16, 18, 50, 53A, 53E, 54A; E988: figures 11a-12b, 14a-15b, 18f; E388: figures 7-12).

Regarding claim 2, E831 teaches a method as discussed in the rejection of claim 1. E831 further discloses repeating operations of broadcasting further descriptive content, which further describes the available content listed in the refined list of available content, and receiving corresponding additional feedback to further refine the list of available content in response to additional feedback (broadcasting further descriptive content such as identifier, air time, or video clips, etc. of the movie according to the user preference, user selection, or user rating, etc. and receiving user selection for additional information of the movie (e.g., video clip, program information, actor/actress, or full title, etc.) to further refine/sort the list of programs/movies in response to the selection for additional information – see including, but are not limited to, figures 13, 16, 54A, 54E, paragraphs 0111, 115, 118, 0123, 0127-0128, 0132-0133, 0138-0139).

Regarding claim 3, E831 teaches a method as discussed in the rejection of claim 2. E831 further discloses the further descriptive content (e.g. additional information, content title, actor/actress name, air time, or video clip, etc. – figures 6-16, 24) is more descriptive of the available content than previous broadcast descriptive content (e.g. category, type, etc. in main menu, figures 2-3,5).

Regarding claim 4, the limitations that correspond to the limitations of claim 1 are analyzed as discussed in the rejection of claim 1.

the limitation “receiving first feedback from the plurality of clients regarding the content descriptors, the first feedback being an indication from the plurality of clients of the relative desirability of the available content described by the content descriptors” corresponding to the limitation “receiving feedback...” in claim 1, and are analyzed as discussed in the rejection of claim 1.

the limitation “sorting available content in response to the first feedback from the clients” is interpreted as sorting available content by time, by channel, by theme, or by favorite, etc. in response to user selection of display by time, display by channel, display by theme, or display by favorite, etc. see include, but are not limited to, E831, figures 2-3, 5-14);

broadcasting further descriptive content related to at least a first portion, which includes the content that is determined to be more likely in demand, of the available content as sorted to the clients, the further descriptive content describing pieces of content that are more likely to be ranked, rated, and/or consumed (broadcasting descriptive content such as program title, actor/actress, channel, airtime, additional information, or video clip, etc. related to user selection of particular category, type, or high ratings, etc., which includes high rating content, target content, or content related to particular genre, etc. based on user viewing history, or viewer profile, etc. to users of user television equipments— see include, but are not limited to, E831: figures 5-14, 25,

Art Unit: 2623

26, 27, 31; E388: figures 9-11; E355: 23-24, 27 and discussion in the rejection of claim 1);

receiving next feedback from the plurality of clients regarding the further descriptive content (e.g. receiving user selection for additional information, program information, or video clips, etc. from the plurality of users of user television equipments –see include, but are not limited to, E831, figures 5-16, 50, 53A, 53E, 54A);

sorting the available content in response to the next feedback from users to create the future broadcast schedule (search for available content for additional content such as program title, airtime etc., in response to selections of users at the user television equipments, to create the future broadcast schedule (e.g., hot list, high demand list, etc.) – see include, but are not limited to, paragraphs 0131, 0135-0138; E355: figures 23-24, 27-30, col. 9, line 15-col. 10. line 54), wherein sorting the available content prioritizes an order in which at least a portion of the available content described by the content descriptors will be broadcast (e.g. the selected list of available content prioritizes in order of time in which at least a portion of the available content (e.g., content title, video clip, or program information, etc.) will be broadcast (see include, but are not limited to, paragraphs 0135-0138, 0157,0181-0182);

broadcasting at least a second portion, which is selected from the first portion, of the available content to the client in an order responsive to the next feedback from the client as prioritized by the sorting and according to the future broadcast schedule (broadcasting at least a portion such as detail description, video clip, or preview, or content of pay per view, etc. which is selected from the selected category, selected hub,

Art Unit: 2623

or selected time slot, etc. listed in the selected list, air times lists, etc. as prioritized by the selected list, or air time list, according to the future broadcast schedule, to users at user television equipments so the selected/sorted content is received at the television equipment for recording or watching – see include, but are not limited to, E831, paragraphs 0196, 213, 0239, 0249-0250; E988: figures 18a-18f, 27, and discussion in the rejection of claim 1).

Regarding claim 5, E831 teaches a method as discussed in the rejection of claim 4.

E831 further discloses repeating:

broadcasting further descriptive content (e.g. additional information, video clip, or program information, score, etc.) related to a narrower portion of the available content as sorted to the plurality of clients (see include, but are not limited to, paragraphs 0092, 0099, 0110, 0128, 0138, 0181);

receiving next feedback from the plurality of clients regarding the further descriptive content (receiving selections of additional information, votes, etc. from users see include, but are not limited to, paragraphs 0111, 0128, 0132-0133, 0137-0139, 0155, 0167, 0192).

Regarding claim 6, E831 teaches a method as discussed in the rejection of claim 4.

E831 further discloses the further descriptive content less expensive to the broadcast to the clients than the available content (since only a portion of the content (i.e., video clip, title, etc.) is broadcast – see include, but is not limited to, figure 13).

Regarding claim 7, E831 teaches a method as discussed in the rejection of claim 4. The claimed feature “the sorting of the available content in response to the next feedback comprises assigning a higher weight to the next feedback than the first feedback” is broadly interpreted as searching/sorting content more related to the second selection (e.g. for movie titles, air times, or detail information, etc., see include, but are not limited to, E831, figures 7, 10, 13-16, 20, 23-24) than the first selection (e.g. a theme, type, etc. – see include, but are not limited to, E831, figures 2-3).

Regarding claim 8, E831 teaches a method as discussed in the rejection of claim 7. E831 further discloses broadcasting of second portion (e.g., program information, or program content as scheduled air times, etc.) in an order further responsive to the first feedback from the plurality of users (in an order responsive to the users’ viewing habits, users’ preferences, user profile, or user selections, etc. – see include, but are not limited to, paragraphs 0088, 0092, 0099, 0110, 0118, 0123, 0128, 0131, 0138, 0148, 0158, 0195-0197, 0201-0203, 0213, 0215-0216, 0250).

Regarding claim 9, E831 teaches a method as discussed in the rejection of claim 4. E831 further discloses broadcasting further descriptive content comprises broadcasting partial available content to the plurality of clients (e.g. text and graphics, video clip, etc. advertising pay per view programs or other programs – see include, but are not limited to, figures 7, 8, 13).

Regarding claim 10, E831 teaches a method as discussed in the rejection of claim 9. E831 further discloses users' viewing habits, user selections of particular video clip, vote for a particular program, team, or purchase a pay per view program, feedback information related to movies, etc., are collected (see include, but are not limited to, paragraphs 0131, 0137-0138, 0147), users favorite programs are displayed or automatically recorded (paragraph 0202); and providing hot movies list, popular shows, etc. (paragraphs 0130-0131, 0250). Thus, the further descriptive content broadcast to the plurality clients (users of user television equipments) is kept track, wherein the broadcast of at least a second portion of the available content comprises broadcasting a portion of a remaining portion of the partial available content to the plurality of clients when the clients select, order the content so that the users can watch or record the remaining portion of a program such as pay per view program or popular show, or hot movie, etc.

Regarding claim 11, E831 teaches a method as discussed in the rejection of claim 4. E831 further discloses the available content comprises at least one of video information, graphical information, or textual information (see include, but are not limited to, figures 7, 8, 12-13, 16).

Regarding claim 12, E831 teaches a method as discussed in the rejection of claim 4. E831 further discloses the further descriptive content comprises at least one of a

Art Unit: 2623

graphical clip, a textual description (see include, but are not limited to, figures 13, 16, 53E).

Regarding claim 43, the limitations of the apparatus as claimed correspond to the limitations of the method as claimed in claim 4, and are analyzed as discussed with respect to the rejection of claim 4. E831 further discloses the apparatus (television distribution facility and/or user television equipment) comprising:

- a processor (processor e.g., part of server 22 for task associated with providing program guide data and other niche hub data to the program guide on the set top boxes) having circuitry to execute instructions (see include, but are not limited to, paragraphs 0100-0101);

- a communication interface (i.e. program distribution equipment or interface to user television equipment) coupled to the processor, the communication interface coupled to receive communication from one or more clients (e.g., receiving communication from one or more users of user television equipments – see include, but are not limited to, figures 1a-1d, paragraphs 0088, 0092);

- a storage device (e.g. storage device in the server at television distribution facility – see include, but is not limited to, paragraph 0097) coupled to the processor, having instructions stored therein, which when executed cause the apparatus to perform functions as discussed in claim 4.

Regarding claim 44 and 46, the additional limitations of the apparatus as claimed correspond to the additional limitations of the method as claimed in claims 8 and 5, and are analyzed as discussed with respect to the rejection of claims 8 and 5.

Regarding claim 45, E831 teaches a method as discussed in the rejection of claim 43. E831 further discloses the available content includes the further descriptive content (e.g. program title, program description, additional information, etc. – figures 7, 13, 16).

Regarding claim 47, the limitations of the system that correspond to the limitation of the method as claimed in claim 4 or 1 are analyzed as discussed with respect to the rejection of claim 4 or 1. E831 further discloses the system comprises a server (e.g. television distribution facility 16 – figure 1a-1d) and one or more clients (users of user television equipments – figures 1a-1d) coupled to the server.

Regarding claims 48-49, the additional limitations of the system as claimed correspond to the additional limitations of the method as claimed in claims 2-3, and are analyzed as discussed with respect to the rejection of claims 2-3.

Conclusion

4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Alexander et al. (US 6,177,931) discloses systems and methods for displaying and recording control interface with television programs, video, advertising information and program scheduling information.

Ellis et al. (US 2003/0020744 A1) discloses client server electronic program guide.

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to SON P. HUYNH whose telephone number is (571)272-7295. The examiner can normally be reached on 9:00 - 6:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher S. Kelley can be reached on 571-272-7331. The fax phone

Art Unit: 2623

number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Son P Huynh/
Primary Examiner, Art Unit 2623

May 29, 2008